

**77-40-106 Application for certificate of eligibility -- Fees.**

- (1)
  - (a) A petitioner seeking to obtain an expungement for a criminal record shall apply for a certificate of eligibility from the bureau.
  - (b) A petitioner who intentionally or knowingly provides any false or misleading information to the bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.
  - (c) Regardless of whether the petitioner is prosecuted, the bureau may deny a certificate of eligibility to anyone providing false information on an application.
- (2)
  - (a) The bureau shall perform a check of records of governmental agencies, including national criminal data bases, to determine whether a petitioner is eligible to receive a certificate of eligibility under this chapter.
  - (b) For purposes of determining eligibility under this chapter, the bureau may review records of arrest, investigation, detention and conviction that have been previously expunged, regardless of the jurisdiction in which the expungement occurred.
  - (c) If the petitioner meets all of the criteria under Section 77-40-104 or 77-40-105, the bureau shall issue a certificate of eligibility to the petitioner which shall be valid for a period of 90 days from the date the certificate is issued.
  - (d) If, after reasonable research, a disposition for an arrest on the criminal history file is unobtainable, the bureau may issue a special certificate giving determination of eligibility to the court.
- (3)
  - (a) The bureau shall charge application and issuance fees for a certificate of eligibility or special certificate in accordance with the process in Section 63J-1-504.
  - (b) The application fee shall be paid at the time the petitioner submits an application for a certificate of eligibility to the bureau.
  - (c) If the bureau determines that the issuance of a certificate of eligibility or special certificate is appropriate, the petitioner will be charged an additional fee for the issuance of a certificate of eligibility or special certificate unless Subsection (3)(d) applies.
  - (d) An issuance fee may not be assessed against a petitioner who qualifies for a certificate of eligibility under Section 77-40-104 unless the charges were dismissed pursuant to a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in Abeyance, or a diversion agreement under Title 77, Chapter 2, Prosecution, Screening, and Diversion.
  - (e) Funds generated under this Subsection (3) shall be deposited in the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.
- (4) The bureau shall provide clear written directions to the petitioner along with a list of agencies known to be affected by an order of expungement.

Amended by Chapter 41, 2013 General Session